

West Great Falls Flood Control & Drainage District (District)
c/o 429 - 19th Street SW
Great Falls, MT 59404-2735
Telephone: (406) 727-8961

March 10, 2010

Montana Water Policy Interim Committee

RE: Federal Emergency Management Agency (FEMA)
Flood Map Modernization (Map Mod) Program
Levee (Re-)Certification and (Re-)Accreditation
U.S. Army Corps of Engineers (Corps) Sun River Flood Protection Project
At Great Falls, Cascade County, Montana (Project)

Dear Committee Members,

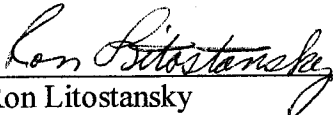
The FEMA Map Mod Program has brought many complex Federal issues and questions to State and local levels. A current lack of FEMA-Corps coordination further complicates the Federal, State, and local ramifications of the Map Mod Program. We, the Board of Commissioners for the local sponsor West Great Falls Flood Control & Drainage District, along with MT House District #26 Representative Bob Mehlhoff, are here before you today to bring this important matter to your attention, to attempt to answer your questions to the best of our ability, and to request your support and assistance.


Most urgent at this time, we need to request a delay of the FEMA de-accreditation process for all levee systems in Montana currently accredited and recognized on FEMA flood maps until all issues and questions regarding the FEMA Map Mod Program are answered. Most importantly, we must have FEMA and the Corps working together on levee certification issues for all Federally constructed levee systems in Montana. We respectfully request letters of support from your Committee in these matters and have provided a sample letter and suggested mailing list as attachments to this correspondence.


We greatly need and appreciate any support and assistance you can provide in this important matter. Please contact us at the District's office if you have additional questions or need more information. Thank you for your time.

Sincerely,

The Board of Commissioners for the West Great Falls Flood Control & Drainage District:


Ron Litostansky
President & Commissioner


Sandy Jo Mares
Secretary & Commissioner


Daniel D. Kleinjan
Commissioner

Attachments: Sample Committee Letter
Mailing List for Requested Committee Letters
March 1, 2010 MT Congressional Delegation signatures submittal
January 2010 MT Congressional Delegation sample signatures form
Project Facts Sheet As Of November 5, 2009
Sample Letters: City of Great Falls October 28, 2009 & March 3, 2010

WATER POLICY INTERIM

COMMITTEE

MARCH 10, 2010

EXHIBIT 4

To whom it may concern:

We, _____, do ask the Corp of Engineers and FEMA to delay the implementation of the Map Mod Program until a number of issues can be resolved. IF de-accreditation takes place at this time, there will be a devastating effect on the families that live in flood districts throughout Montana. De-accreditation will bring lower property values, higher flood insurance costs, and will make new construction or improvements to existing structures virtually impossible. Montana, because of its rural nature, has neither the population nor the resources to implement this expensive unfunded federal mandate.

There are many questions about the Map Mod Program that still needs to be answered before implementation takes place.

1. Who will pay for the certification? Non-Federal Local Sponsors in sparsely populated areas cannot afford certification under the present set of rules.
2. Are there any engineering firms willing or qualified to do the work in Montana? What will be the cost?
3. **As a cost saving move for levee districts, can FEMA and the Corp work together to merge the safety and Map Mod certification programs?**
4. If the levies are de-accredited, what will be the effect on property values, flood insurance costs, and even levee maintenance?
5. Why is the Corp of Engineers no longer responsible for certification of levees?
6. What will be the liability implications for local governments and non-Federal local sponsors in the Map Mod process?

Until these questions are answered, we are asking the de-accrediting process to be suspended. The lives of many Montanans will be adversely affected by the Map MOD Process in its present form. We urge the Corp of Engineers and FEMA to work with congress to make necessary improvements to this program, so it will be possible for Montana levee districts to comply with program rules.

Mailing List for Requested Letters
FEMA Map Mod Program and Levee Certification
March 10, 2010

The Honorable William Craig Fugate
Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, DC 20472

Jeanine D. Peterson
Mitigation Division Director
FEMA – Region VIII
Denver Federal Center, Building 710
Denver, CO 80225-0267

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
U.S. Army Corps of Engineers
441 G. Street, NW
Washington, DC 20314-1000

Kayla Uptmor
U.S. Army Corps of Engineers
Omaha District
1616 Capitol Avenue
Omaha, NE 68102

Bonnie J. Keller, Field Representative
For The Honorable U.S. Senator Max Baucus
113 – 3rd Street North
Great Falls, MT 59401

Cheryl Ulmer, Field Director
For The Honorable U.S. Senator Jon Tester
119 – 1st Avenue North, Suite 102
Great Falls, MT 59401

Mike Waite, Field Representative
For The Honorable U.S. Congressman Denny Rehberg
105 Smelter Avenue NE, Suite 116
Great Falls, MT 59404

-- End --

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Great Falls, MT 59404-2735
Telephone: (406) 727-8961

March 1, 2010

The Honorable U.S. Senator Max Baucus
c/o Bonnie J. Keller, Field Representative
113 - 3rd Street North
Great Falls, MT 59401

The Honorable U.S. Senator Jon Tester
c/o Cheryl Ulmer, Field Director
119 - 1st Avenue North, Suite 102
Great Falls, MT 59401

The Honorable U.S. Congressman Denny Rehberg
c/o Mike Waite, Field Representative
105 Smelter Avenue NE, Suite 116
Great Falls, MT 59404

RE: U.S. Army Corps of Engineers Sun River Flood Protection Project
At Great Falls, Cascade County, Montana (Project)
Federal Emergency Management Agency (FEMA)
Flood Map Modernization (Map Mod) Program

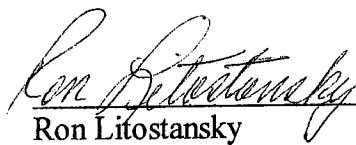
Dear Montana Congressional Delegation,


We, the Board of Commissioners for the local sponsor West Great Falls Flood Control & Drainage District (District), do hereby submit to each of you **810** signatures of District property owners and members requesting your support and assistance for the continued recognition of this Project levee system by the FEMA Map Mod Program for the City of Great Falls and Cascade County, Montana. Original signature pages are on file at the District's office.

If you have any questions or need additional information, please do not hesitate to contact us at the District's office. We greatly need and appreciate your support and assistance in this matter. Thank you.

Respectfully submitted,

The Board of Commissioners for the West Great Falls Flood Control & Drainage District:


Ron Litostansky
President & Commissioner


Sandy Jo Mares
Secretary & Commissioner


Daniel D. Kleinjan
Commissioner

Attachment: 85-pages with 810-signatures

January 2010

TO: Our Montana Congressional Delegation
The Honorable U.S. Senator Max Baucus, U.S. Senator Jon Tester,
and U.S. Congressman Denny Rehberg

We, the undersigned property owners and members of the local sponsor West Great Falls Flood Control & Drainage District, do hereby request your support and assistance for the continued recognition of the U.S. Army Corps of Engineers Sun River Flood Protection Project, Great Falls, Cascade County, Montana, levee system by the Federal Emergency Management Agency Flood Map Modernization Program for the City of Great Falls and Cascade County, Montana.

<u>Signature</u>	<u>Printed Name</u>	<u>Complete Mailing Address</u>	<u>Telephone</u>
1.		-----	
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3.		-----	
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Sun River Flood Protection Project At Great Falls, Montana (Project)
Facts Sheet
As Of November 5, 2009

FEDERAL-LOCAL COOPERATION

Agreement Between The United States Of America and West Great Falls Flood Control And Drainage District For Local Cooperation At Sun River, Great Falls, Montana, entered into March 8, 1977

FEDERAL

Agency: U.S. Army Corps of Engineers, Omaha District (Corps)

Project design & engineering

Project construction: contracts, supervision, & inspection

Construction: five (5) contracts, 1981-1986, **contracts cost \$10,001,970**

Stage I, Stage II, Miscellaneous, Levee Repair, & Mitigation

Project completion: May 5, 1987

Transfer of Operation and Maintenance Responsibilities: June 25, 1987

Operation and Maintenance Manual 1988

Operation and Maintenance Regulations, Updates, Guidelines, Recommendations, etc.

Project Annual Inspections (PL 84-99 RIP) verify proper operation and maintenance

Levee Safety Program: initiatives being implemented as of September 11, 2009

Periodic Inspections (more comprehensive inspections by end of September 2011)

Levee Inventory (locations & elevation profile surveys to begin October 2009)

Vertical Datum Establishment (control monuments to 1988 vertical datum)

Levee Risk Assessment Screening (levee systems relative risk rankings)

LOCAL

Local Sponsor: West Great Falls Flood Control & Drainage District (District)

Revenue Source: Property Tax General and Special Benefits Assessments

2009 Property Tax Year: 865 properties and 10 special benefits entities

District "construction": Project rights-of-way (eminent domain); borrow area;

Watson Coulee contribution; local engineering; appraisals; legal services;

removal or alteration of improvements, bridges, streets, utilities, etc.;

relocation payments and assistance

District "construction": **budget \$2,050,000** as of November 9, 1979

Transfer of Operation and Maintenance Responsibilities: June 25, 1987

Operate and Maintain Project in accordance with Corps regulations, guidelines, updates, etc.

Post-Construction Project Modifications: None

Post-Construction National Weather Service Flood Watches & Flood Warnings: June 1997

Post-Construction Flood Damage/Flood Waters on Levee Slopes: None

Current Fiscal Year (7/1/2009-6/30/2010) District Budget Total: \$55,000

Current Fiscal Year Project Operation and Maintenance Budget: \$36,500

Average Annual (Fiscal Year) Operation and Maintenance Costs: \$25,000 to \$35,000

Two Corps-Approved Rehab and Repairs Projects 2006-2008 Costs: \$400,018

New and Additional (March 2008 & 2009) Corps-Required Operation and Maintenance:

Corps Project Deficiencies: Culvert/Discharge Pipe Inspections due by 2013

Monitor Woody Vegetation (specific, defined areas)

PROJECT STATUS: "shovel-ready" for Corps (Re-)Certification

Federal Emergency Management Agency (FEMA) (44 CFR 65.10)

FEMA Flood Map Modernization (Map Mod) Program



March 3, 2010

Ms. Jeanine D. Peterson
FEMA Region VIII
Mitigation Division Director
Denver Federal Center, Building 710
Denver, CO 80225-0267

Dear Ms. Peterson:

I am writing to address the request by FEMA for the City of Great Falls to sign the Provisionally Accredited Levee (PAL) Agreement. In recent meetings, it has come to my attention that we have never officially responded to the request that the City sign the PAL agreement. With this letter, I am notifying you that the City of Great Falls will not sign the Agreement as written based on a number of concerns.

- By signing the PAL, it could be argued that the City is making a warranty that the levy system is sound (complies with 44 CFR 65.10, or will be complaint within the two-year period.)
- If the levee were found not to be in compliance, compliance efforts must begin right away, requiring a large outlay of money.
- The City has no foundation for making a warranty that the levee is compliant because we do not have an independent engineering study attesting to same.
- If the City makes a warranty that says the levee is compliant, it would affect the citizenry's ability to get insurance and the rates for insurance.
- In the event of a flood, the City would be in the chain of liability.

The City of Great Falls has asked the Montana Congressional Delegation for assistance in working through this critical matter. (See attached letters) There are hundreds of residents who are impacted by FEMA's new requirements, and we do not believe that signing the Provisionally Accredited Levee Agreement as written is in their best interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory T. Doyon".

Gregory T. Doyon
City Manager

Enclosures

C: City Commissioners
Cascade County Commissioners
West Great Falls Flood Control District
Kim McCleary, City of Great Falls Floodplain Administrator

P.O. Box 5021, 59403-5021



this same letter
sent to
U.S. Senator
Jon Tester
U.S. Congressman
Denny Rehberg

October 28, 2009

The Honorable Senator Max Baucus
113 3rd Street North
Great Falls, MT 59401

COPY

Re: Federal Emergency Management Agency's Provisionally Accredited Levee Map
Modernization Program and Levee Accreditation

Dear Senator Baucus:

We are writing to request your assistance in the matter of FEMA's Map Modernization Program and the loss of accreditation for our levee. This issue is of vital importance to the residents of the City of Great Falls, and especially those who live within the floodplain. Since the Army Corps of Engineers constructed the levee system, which protects hundreds of residents within our city's boundaries, Great Falls' residents have been able to rely on the Corps of Engineers to perform certification of the levee system. This enabled residents to have clear expectations about the cost of flood insurance and construction and improvement on their properties.

However, just over a year ago, when representatives from the City of Great Falls, Cascade County, and the West Great Falls Flood Control and Management District (WGFFCMD) met with officials from the Federal Emergency Management Agency's Denver Field Office to discuss FEMA's floodplain digitization map modernization program, we were informed that the Army Corps of Engineers' budgetary concerns and FEMA's policy changes will now require the City of Great Falls and others within their respective levee districts to carry the costly burden of levee certification. After serious analysis of the costs and responsibilities associated with this change, we are at a loss as to how to we will be able to serve our constituents in the manner they deserve. This letter is being provided as a detailed explanation of the issue and the rationale for our request for assistance.

The modernization program, as described by FEMA officials, was initiated to update and digitize outdated floodplain maps. Floodplain maps are used extensively by communities to assist property owners with development, construction, and flood mitigation. They are also used by realtors, assessors, appraisers, and insurers to measure property value and set flood insurance rates for property owners in the floodplain. In connection with its flood map modernization program, FEMA is requiring proof of certification for any levee system before it will include the levee in its update of the maps. Throughout this process, it has become apparent that FEMA realized communities did not have the financial resources, or expertise, to certify their levies. In many cases, the community did not even know where to begin. Therefore, now, if the community could not provide certification documentation, FEMA required the community sign a Preliminary Accredited Levee Agreement, or PAL.

By signing the PAL Agreement, a community promises to establish a plan which will allow for certification of the levee system within two (2) years, but also attests that, to the best of the community's knowledge, at the time of signing the Agreement, the levee complies with the terms of 44 CFR § 65.10, meaning that it provides a 1-percent-annual-chance flood protection and will work as designed during a flood event. After receiving the signed PAL Agreement, FEMA grants preliminary accreditation to the levee for that community. Additionally, however, FEMA officials explained that the levee system in the Great Falls region included four entities (County, City, WGFFCMD, and Vaughn), and all would be required to sign the PAL for it to receive provisional accreditation.

The certification requirement is key, however. Certification means that the levee will provide a set level of protection. Without this certification FEMA's new maps will represent that no levee exists despite the fact that an actual levee is present in that area and has been reflected on FEMA's maps for decades. Proper certification can only occur after a qualified engineering firm has performed a costly and time consuming structural study of the levee. At the time of the first meeting, there was only one known firm in the country willing to perform such a study. Obviously, this caused concern in terms of cost and availability of properly credentialed engineers to satisfy FEMA's requirement. For many communities, including the City of Great Falls, it will now be necessary to engage in a recertification effort if they want their levee to be shown on FEMA's Digital Flood Insurance Rate Map (DFIRM) in the future.

The levee system in Great Falls was designed and constructed in the early 1980's by the United States Army Corp of Engineers and is currently owned and maintained by the WGFFCMD. As stated above, the Army Corps of Engineers has, historically, certified the levees, and property owners within the district were assessed a small property tax to fund repairs and maintenance. The City of Great Falls has approximately 550 parcels within the district worth millions of dollars in estimated property value. In July, during the most recent meeting with FEMA's and the Corp of Engineers' representatives, organized for the purpose of discussing the Provisionally Accredited Levee Agreement circulated by FEMA, we and the other jurisdictions learned that the primary justification for the discontinuation of certification services is a perceived lack of funding by the Corp because their budget request for certification services was rejected.

After careful consideration, at its October 7, 2009, Work Session, the Commission accepted staff's recommendation to not sign the PAL Agreement because it requests local governments and levee districts to attest that the levees, over which the locality has jurisdiction, comply with 44 CFR 65.10. Without having hired a qualified engineering firm to perform an actual certification, a signatory of the PAL Agreement has asserted that the levee complies with Federal Regulations without any factual basis.

Further, it places an impossible burden on communities signing the PAL and receiving a provisional accreditation for their levee(s). The signatory of the PAL agreement must present a plan to become fully accredited within the time period set by FEMA. So, after the community engages in costly and time-consuming efforts, as part of this plan, if the levee is then found deficient after FEMA's review, repair and modernization of the levee would then be required to maintain a provisional accreditation.


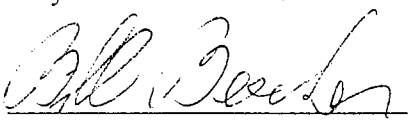

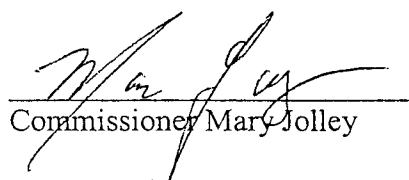
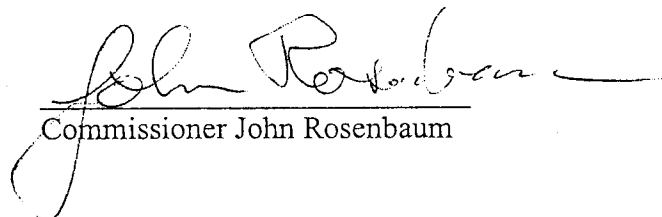
The time allotted for correction is called a "maintenance deficiency correction period", and is a one-time only opportunity. The community then has a 12-month period of time to correct any deficiencies. If the deficiency is not corrected in that time, the levee is placed in an inactive status and is de-accredited. The map is then updated to show the area behind the levy as a "high-risk" zone, placing the community back in the position it was had it never signed the agreement in the first place. Only now, the community has expended vast amounts of capital on an unsuccessful effort to comply with an unfunded mandate from FEMA.

It is also arguable that by signing the PAL, the City or other community makes a warranty that the levy system is sound, and, should there be a flood, is placed in the chain of liability. This is because the City or community has basically said, "you don't need to get flood insurance. The levy is fine," even though the City or community has no way of knowing that. The liability to a community in this position is practically incalculable given the number of properties in the flood zone.

We feel that FEMA has urged the City and the other requested signatories of the PAL Agreement to place themselves into that very circumstance. We find ourselves in a very difficult circumstance and provide all this information because the residents living in the floodplain, whom we serve, are caught in the middle. Local officials are finding it impossible to meet FEMA's requirements in terms of time, money, and conscience. We ask for your assistance to consider if the Army Corp of Engineers could be funded, perhaps with ARRA funds, to help them continue certification services for the levees they have built.

Thank you for your attention to this request and concern for the problems we and other communities are facing in light of the Floodplain Map Modernization and Levee accreditation process. Anything you can do to assist would be most appreciated by your constituents in the Great Falls area.

Sincerely,


Mayor Dona Stebbins
Commissioner Bill Beecher
Commissioner Bill Bronson
Commissioner Mary Jolley
Commissioner John Rosenbaum